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In re Application of: :
De Regt et al. :
Application No.: 09/937,576 : DECISION
PCT No.: PCT/IB00/00350 :
Int. Filing Date: 27 March 2000 : ON
Priority Date: 25 March 1999 :
Atty. Docket No.: 88000.1012 : PETITION
For: Device For Dispensing :
Adhesive Tape In Strips :
:

This is in response to the "Petition Under 37 C.F.R. 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment" filed on 08 January 2004.

BACKGROUND

This international application was filed on 27 March 2000, claimed an earlier priority date of 25 March 1999, and designated the United States. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 05 October 2000. Accordingly, the 30 month period to pay the basic national fee in the United States expired as of midnight on 25 September 2001. On 25 September 2001, applicants filed *inter alia* the basic national fee.

On 30 October 2001, a Notification Of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 04 December 2002, a Notification Of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification Of Missing Requirements.

DISCUSSION

Petitioner requests that the Notification of Abandonment be withdrawn because "Applicants submitted a response to the Notification of Missing Requirements mailed October

30, 2001 on December 14, 2001" which included a Certificate of Mailing under 37 CFR 1.8. The petition is accompanied by a "copies of the Response to the Notice of Missing Requirements submitted on December 14, 2001..." Counsel has also included a copy of a return receipt postcard which itemizes a "Check for \$65.00; Transmittal +1; Copy of Form PCT/DO/EO/905 Notification of Missing Requirements; Executed Combined Declaration and Power of Attorney" and is stamped as "Rec'd PCT/PTO 01 FEB 2002."

MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the declaration filed on 08 January 2004 is being accepted as a copy of the declaration originally filed on 01 February 2002. As such, it would be appropriate to conclude that applicant timely replied to the Notification of Missing Requirements mailed on 30 October 2001; therefore, the Notification of Abandonment mailed on 04 December 2002 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **01 February 2002**.



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